

By: Button

H.B. No. 3540

A BILL TO BE ENTITLED

AN ACT

relating to financial reporting requirements for certain labor organizations; creating new criminal offenses; imposing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 101, Labor Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. REPORTING REQUIREMENTS FOR CERTAIN LABOR ORGANIZATIONS

Sec. 101.351. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Ethics Commission.

(2) "Labor organization" means any organization in which public employees participate and that exists wholly or partly to deal with one or more public employers concerning grievances, labor disputes, wages, hours of employment, working conditions, and terms of employment and includes a labor organization that is exempt from taxation under Section 501(c)(5), Internal Revenue Code of 1986.

(3) "Member" means a person who has fulfilled the requirements for membership in a labor organization, and who has not:

(A) voluntarily withdrawn from membership in the organization; or

(B) been expelled or suspended from membership in

1 the organization after appropriate proceedings consistent with
2 lawful provisions of the constitution and bylaws of the
3 organization.

4 (4) "Officer" means a constitutional officer of a
5 labor organization or any person authorized to perform the
6 functions of the president, vice president, secretary, or
7 treasurer, or other executive functions of a labor organization,
8 and any member of the executive board or similar governing body of a
9 labor organization.

10 (5) "Public employer" means:

11 (A) a county, a municipality, or another
12 political subdivision of this state, including a school district;
13 or

14 (B) a board, a commission, an office, a
15 department, or another agency in the executive, judicial, or
16 legislative branch of state government, including an institution of
17 higher education.

18 Sec. 101.352. APPLICABILITY OF SUBCHAPTER. This subchapter
19 does not apply to a labor organization that is required to file
20 reports with the United States secretary of labor under Section
21 201, Labor-Management Reporting and Disclosure Act of 1959 (29
22 U.S.C. Section 431) or a successor statute.

23 Sec. 101.353. INITIAL REGISTRATION OF LABOR ORGANIZATION.

24 (a) Not later than December 1, 2017, each labor organization must
25 file with the commission:

26 (1) a copy of the organization's constitution and
27 bylaws; and

1 (2) a report, signed by the president and secretary of
2 the organization, or the corresponding principal officers of the
3 organization, containing the following information:

4 (A) the name and mailing address of the
5 organization and any other address where the organization maintains
6 its principal office or at which the organization's records are
7 kept;

8 (B) the name and title of each officer of the
9 organization;

10 (C) the initiation fee or fees required from a
11 new or transferred member and fees for work permits required by the
12 organization;

13 (D) the regular dues or fees or other periodic
14 payments required to remain a member of the organization; and

15 (E) detailed statements or references to
16 specific provisions of the constitution or bylaws of the
17 organization that contain the provisions and procedures governing
18 each of the following:

19 (i) qualifications for or restrictions on
20 membership;

21 (ii) levying of assessments;

22 (iii) participation in insurance or other
23 benefit plans;

24 (iv) authorization for disbursement of
25 funds of the organization;

26 (v) audit of financial transactions of the
27 organization;

1 (vi) the calling of regular and special
2 meetings;

3 (vii) the selection of officers and
4 stewards and of any representatives to other bodies composed of
5 labor organizations' representatives, with a specific statement of
6 the manner in which each officer is elected, appointed, or
7 otherwise selected;

8 (viii) discipline or removal of officers or
9 agents for breaches of their trust;

10 (ix) imposition of fines against members
11 and suspensions and expulsions of members, including the grounds
12 for action and any requirements for notice, hearing, judgment on
13 the evidence, and appeal procedures;

14 (x) authorization for bargaining demands;
15 and

16 (xi) ratification of contract terms.

17 (b) A labor organization must include any updates to the
18 information reported under this section with the organization's
19 annual report filed under Section 101.354.

20 (c) A labor organization formed on or after December 1,
21 2017, must file the information listed under Subsection (a) with
22 the commission not later than the 90th day after the date the
23 organization is formed.

24 Sec. 101.354. ANNUAL REPORT. (a) Not later than the 90th
25 day after the last day of a labor organization's fiscal year, the
26 organization must file with the commission a financial report
27 disclosing the financial condition and operations of the

organization for the fiscal year. The report must be signed by the president and treasurer of the organization or the corresponding principal officers of the organization.

(b) The report must contain the following information:

(1) assets at the beginning and end of the fiscal year, including a schedule disclosing on separate lines the totals for:

(A) cash;

(B) accounts receivable, including a detailed schedule that states:

(i) the name of the person or entity;

(ii) the total amount receivable from that person or entity;

(iii) any amounts that are 90-180 days past due;

(iv) any amounts that are more than 180 days past due; and

(v) any amounts that have been liquidated;

(C) loans receivable, including a detailed schedule that states:

(i) the name of the person or entity receiving the loan;

(ii) the purpose for the loan;

(iii) the security received for the loan;

(iv) the terms of repayment;

(v) the amount of loans outstanding from the person or entity at the start of the reporting period;

(vi) the amount of loans made to the person

or entity during the reporting period;

(vii) the amount of cash repayments made during the reporting period;

(viii) the amount of repayments made by means other than cash; and

(ix) the amount of loans outstanding for each person or entity at the end of the reporting period;

(D) United States Treasury securities;

(E) investments, including a detailed schedule containing:

(i) the name and amount of each marketable security that has a book value of \$5,000 or more and that exceeds five percent of the total of all marketable securities; and

(ii) the name and amount of each other investment that has a book value of \$5,000 or more and that exceeds five percent of the total of all other investments;

(F) fixed assets, including a detailed schedule that states:

(i) the location, cost, book value, and value of property;

(ii) the location, cost, total depreciation or amount expended, book value, and value of buildings;

(iii) the cost, total depreciation or amount expended, book value, and value of automobiles and other vehicles;

(iv) the cost, total depreciation or amount expended, book value, and value of office furniture and equipment;

1 and

2 (v) the cost, total depreciation or amount
3 expensed, book value, and value of other fixed assets; and

4 (G) other assets, including a detailed schedule
5 that states the description and value of the asset;

6 (2) the labor organization's liabilities at the
7 beginning and end of the fiscal year, including a schedule
8 disclosing on separate lines the totals for:

9 (A) accounts payable, including a detailed
10 schedule that states:

11 (i) the name of the person or entity;

12 (ii) the total amount payable to that
13 person or entity;

14 (iii) any amounts that are 90-180 days past
15 due;

16 (iv) any amounts that are more than 180 days
17 past due; and

18 (v) any amounts that have been liquidated;

19 (B) loans payable, including a detailed schedule
20 that states on separate lines for each loan:

21 (i) the source of loans payable at any time
22 during the reporting period;

23 (ii) the amount owed at the beginning of the
24 reporting period;

25 (iii) any loans obtained during the
26 reporting period;

27 (iv) the amount of cash repayments made

1 during the reporting period;
2 (v) the amount of repayments made by means
3 other than cash during the reporting period; and
4 (vi) the total owed at the end of the
5 reporting period;
6 (C) mortgages payable, including a detailed
7 schedule that states on separate lines for each mortgage:
8 (i) the source of mortgages payable at any
9 time during the reporting period;
10 (ii) the amount owed at the beginning of the
11 reporting period;
12 (iii) any mortgages obtained during the
13 reporting period;
14 (iv) the amount of cash repayments made
15 during the reporting period;
16 (v) the amount of repayments made by means
17 other than cash during the reporting period; and
18 (vi) the total owed at the end of the
19 reporting period; and
20 (D) other liabilities, with a separate detailed
21 schedule that discloses on separate lines a description of each
22 liability and the amount owed at the end of the reporting period;
23 (3) receipts of any kind and the sources of the
24 receipts, including a schedule disclosing on separate lines the
25 totals for:
26 (A) dues and agency fees and dues transmitted to
27 the organization by a parent body or other affiliate and a separate,

detailed schedule that states on separate lines any amounts received from employers through a checkoff arrangement;

(B) per capita tax and a separate, detailed schedule that states on separate lines:

(i) the per capita tax portion of dues received directly by the organization from members of affiliates;

(ii) the per capita tax received from subordinates, either directly or through intermediaries; and

(iii) the per capita tax portion of dues received through a checkoff arrangement in which local dues are remitted directly to an intermediate or parent body by employers;

(C) fees, fines, assessments, and work permits;

(D) sale of supplies;

(E) interest;

(F) dividends;

(G) rents;

(H) sale of investments and fixed assets, including a detailed schedule that states:

(i) a description of the investment, including the address if the investment is land or buildings;

(ii) the cost of the investment;

(iii) the book value of the investment;

(iv) the gross sales price; and

(v) the amount of the investment obtained;

(I) loans obtained by the organization;

(J) repayments of loans made by the organization;

(K) receipts on behalf of affiliates for

1 transmittal to the affiliates; and

2 (L) receipts on behalf of members for
3 disbursement to the members;

4 (4) expenditures for salaries, allowances, and other
5 direct or indirect disbursements, including reimbursed expenses,
6 and benefits;

7 (5) for each officer or employee who, during the
8 fiscal year, received more than \$10,000 in the aggregate from the
9 organization and any other affiliated labor organization, an
10 estimation of the amount of time spent in the functional expense
11 categories of:

12 (A) contract administration;

13 (B) organizing activities;

14 (C) political activities;

15 (D) lobbying;

16 (E) contributions;

17 (F) gifts and grants;

18 (G) general overhead; and

19 (H) union administration;

20 (6) direct and indirect loans made to any officer,
21 public employee, or member, which aggregated more than \$250 during
22 the fiscal year, with a statement of the purpose, security, if any,
23 and arrangements for repayment;

24 (7) direct and indirect loans made to any business
25 enterprise, with a statement of the purpose, security, if any, and
26 arrangements for repayment;

27 (8) if the organization purchased investments or fixed

1 assets during the fiscal year, a detailed schedule that states:

2 (A) a description of the investment, including
3 the address if the investment is land or buildings;

4 (B) the cost of the investment;

5 (C) the book value of the investment;

6 (D) the gross sales price; and

7 (E) the amount paid for the investment;

8 (9) for each payer or payee for whom there is an
9 individual receipt or disbursement of \$1,000 or more, or total
10 receipts or disbursements that aggregate to \$1,000 or more during
11 the reporting period for any of the following, an itemization
12 schedule that includes the name and address, purpose, date, amount,
13 and classification of the disbursement:

14 (A) other receipts;

15 (B) contract administration;

16 (C) organizing activities;

17 (D) political activities;

18 (E) lobbying;

19 (F) contributions, gifts, and grants;

20 (G) general overhead;

21 (H) union administration; and

22 (I) benefits; and

23 (10) any other disbursements made by the organization
24 in an additional category prescribed by the commission.

25 Sec. 101.355. SIMPLIFIED REPORT. (a) The commission may
26 adopt rules allowing labor organizations with receipts of less than
27 \$250,000 in a fiscal year to file a simplified version of the report

1 required under Section 101.354. The commission shall prescribe the
2 form of the simplified report.

3 (b) The commission may revoke the ability of a labor
4 organization described under Subsection (a) to file a simplified
5 report if the commission determines, after an investigation, proper
6 notice to the organization, and a hearing, that the organization
7 should file a full report in the interest of financial
8 transparency.

9 Sec. 101.356. FILING AND PUBLICATION OF REPORTS BY
10 COMMISSION. (a) The commission shall create a system for the
11 electronic filing of the reports required under this subchapter. A
12 labor organization must file the reports required under this
13 subchapter electronically unless the organization receives a
14 hardship exemption from the commission.

15 (b) The commission may adopt rules governing the format of
16 the reports filed under this subchapter.

17 (c) The commission shall make the reports filed under this
18 subchapter and any data included with the reports available in a
19 searchable format on the commission's Internet website.

20 (d) The commission may use the information and data
21 contained in the reports filed under this subchapter for
22 statistical and research purposes and may publish the results of
23 any studies or analyses produced using the data.

24 Sec. 101.357. RETENTION OF RECORDS. A labor organization
25 that files reports under this subchapter must maintain the records
26 of the organization that may be used to verify, explain, clarify, or
27 check for accuracy and completeness the information contained in

1 each report for at least five years after the date the report was
2 submitted.

3 Sec. 101.358. ACCESS TO REPORTS AND INFORMATION BY MEMBERS.

4 (a) A labor organization shall make the information contained in
5 the reports submitted under Sections 101.353 and 101.354 available
6 to the members of the organization.

7 (b) A member of a labor organization is entitled to inspect
8 the books, records, or accounts of the organization for the purpose
9 of verifying the information contained in the reports submitted by
10 the organization under Sections 101.353 and 101.354.

11 (c) If a labor organization does not allow a member of the
12 organization to conduct an inspection under Subsection (b), the
13 member may bring an action against the organization or any officer
14 of the organization to compel the inspection. The court may order
15 the organization or the officer to reimburse the member for court
16 costs and attorney's fees associated with the suit.

17 Sec. 101.359. INVESTIGATIONS. (a) The commission may
18 conduct investigations as necessary to determine whether a person
19 or a labor organization has violated or is about to violate any
20 provision of this subchapter.

21 (b) The commission is entitled to inspect on demand and
22 access relevant places, records, and accounts of a labor
23 organization and interview persons as necessary to determine facts
24 related to an investigation.

25 (c) The commission may report the findings of an
26 investigation conducted under this section to the appropriate
27 prosecuting attorney for civil enforcement actions or criminal

1 prosecutions.

2 Sec. 101.360. ADMINISTRATIVE PENALTY FOR FAILURE TO FILE
3 REPORT. A labor organization that does not file the report required
4 under Section 101.354 within the time frame specified by that
5 section is subject to an administrative penalty of \$100 imposed by
6 the commission for each additional day after the deadline that the
7 organization does not file the report. The commission shall
8 deposit penalties collected under this section as general revenue
9 in the state treasury.

10 Sec. 101.361. ENFORCEMENT; CRIMINAL OFFENSE; CIVIL ACTION.
11 (a) If the commission determines that a person has violated or is
12 about to violate any of the provisions of this subchapter, the
13 commission may bring a civil action for appropriate relief,
14 including an injunction.

15 (b) A person who intentionally violates this subchapter
16 shall be fined not more than \$10,000 or imprisoned for not more than
17 one year, or both.

18 (c) A person who knowingly makes a false statement or
19 representation of a material fact, or who knowingly fails to
20 disclose a material fact, in any document, report, or other
21 information required under this subchapter shall be fined not more
22 than \$10,000 or imprisoned for not more than one year, or both.

23 (d) A person who wilfully makes a false entry in or wilfully
24 conceals, withholds, or destroys any books, records, reports, or
25 statements required to be kept under this subchapter shall be fined
26 not more than \$10,000 or imprisoned for not more than one year, or
27 both.

1 (e) Each person required to sign reports under this
2 subchapter is considered to be personally responsible for the
3 filing of such reports and for any statement contained in the report
4 that the person knows to be false.

5 SECTION 2. This Act takes effect September 1, 2017.